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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,110	04/14/2004	Kenneth D. Eisenbraun	KDE-23702/03	6162
25006	7590	12/23/2005	EXAMINER	
GIFFORD, KRASS, GROH, SPRINKLE & CITKOWSKI, P.C			STERLING, AMY JO	
PO BOX 7021				
TROY, MI 48007-7021			ART UNIT	PAPER NUMBER
			3632	
DATE MAILED: 12/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/824,110	Applicant(s) EISENBRAUN, KENNETH D.	
	Examiner Amy J. Sterling	Art Unit 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This is the second non-final Office Action for application number 10/824,110 Merchandising Hanger, filed on 4/14/04. Claims 1-18 are pending. This is the second non-final Action is in response to applicant's Appeal Brief dated 10/19/05. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

In view of the new art cited below, prosecution has been re-opened and inconvenience to the applicant is regretted.

### ***Drawings***

The drawings are objected to because in Figures 1 and 3 show that reference numeral 14 is pointing to an opening, but is referred to as a "planar surface" (See Specification page 3, line 5).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for

consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "the base of the stud". There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

Claims 1, 2 and 4-7 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 4811977 to Swift et al.

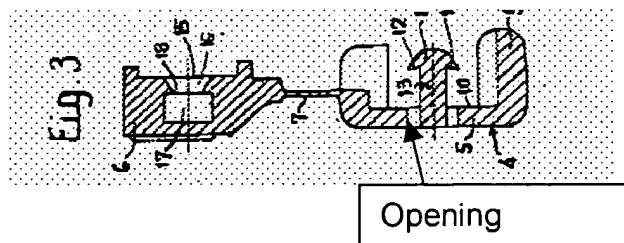
The patent to Swift et al. discloses a single piece hanger (10) molded of a thermoplastic material (See Col. 2, line 43 for material) having a planar surface (30) having a top and a base, a tab (16) extending from the base of the surface, the tab

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having a stud (24, 28, 29) with a body (29) and a hemispherical conical cap (24,28), the stud which is integral with one of the first portion (14) and an aperture (20) having a flange divided into a plurality of flange portions (22) therein through a third tab portion (12), the first tab portion having a first tab portion thickness, the third tab portion having a third tab portion thickness and an intermediate between the first and third tab portions is a second tab portion (18) having a second tab thickness which is less than the first tab portion thickness.

Claims 1, 3 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by United States Patent No. 3708835 to Bienz.

The patent to Bienz teaches a hanger (See Figure 3) having a planar surface (20) having a top and a base, a tab (4) extending from the base having a stud (13) integral with a third tab portion (5) and an aperture (15) having a flange (18) therein through the first tab portion (6), and a second tab portion (7) intermediate the first and third tab portions, wherein the second tab portion (7) has a thickness that is less than the first tab portion (6) and the first tab portion has a thickness that is greater than the third tab portion (5) and wherein there is an opening (See Drawing Below) adjacent the base of the stud in the third tab portion.



***Claim Rejections - 35 USC § 103***

Claims 8, 10-12 and 14-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over 4811977 to Swift et al. as applied to claim 1 above.

Swift et al. teaches the basic inventive concept as shown above including a single piece hanger (10) molded of a thermoplastic material (See Col. 2, line 43 for material) having a planar surface (30) having a top and a base, a tab (16) extending from the base of the surface, the tab having a stud (24, 28, 29) with a body (29) and a hemispherical conical cap (24,28), the stud which is integral with one of the first portion (14) and an aperture (20) having a flange divided into a plurality of flange portions (22) therein through a third tab portion (12), the first tab portion having a first tab portion thickness, the third tab portion having a third tab portion thickness and an intermediate between the first and third tab portions is a second tab portion (18) having a second tab thickness which is less than the first tab portion thickness.

Swift et al. does not specifically teach that the ratio of first, second and third tab thicknesses are 1.5-3.5:1:1.3-2.5.

It would have been obvious to one of ordinary skill in the art to have made the tab of these dimensions, in order to support the device in the manner desired and to bend the tab in the desired location, the dimension being a design choice which would be obvious to optimize. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Swift et al. to have optimized the dimensions of the device including these thickness ratios.

Claims 10, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over 3708835 to Bienz.

The patent to Bienz teaches a hanger (See Figure 3) having a planar surface (20) having a top and a base, a tab (4) extending from the base having a stud (13) integral with a third tab portion (5) and an aperture (15) having a flange (18) therein through the first tab portion (6), and a second tab portion (7) intermediate the first and third tab portions, wherein the second tab portion (7) has a thickness that is less than the first tab portion (6) and the first tab portion has a thickness that is greater than the third tab portion (5) and wherein there is an opening (See Drawing Below) adjacent the base of the stud in the third tab portion.

Bienz does not specifically teach that the ratio of first, second and third tab thicknesses are 1.5-3.5:1:1.3-2.5.

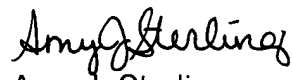
It would have been obvious to one of ordinary skill in the art to have made the tab of these dimensions, in order to support the device in the manner desired and to bend the tab in the desired location, the dimension being a design choice which would be obvious to optimize. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made from the teachings of Bienz to have optimized the dimensions of the device including these thickness ratios.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication should be directed to Amy J. Sterling at telephone number 571-272-6823. The examiner can normally be reached (M-F 8 a.m.-5:00 p.m.). If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 571-272-6815. The fax machine number for the Technology center is 571-273-8300 (formal amendments) or 571-273-6823 (Informal communications). Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist at 571-272-3600

  
Amy J. Sterling  
12/20/05